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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,154	12/02/2003	Kenneth A. Vlazny	3127-6066US	5283
24247	7590	10/14/2009		
TRASKBRITT, P.C. P.O. BOX 2550 SALT LAKE CITY, UT 84110			EXAMINER RADA, ALEX P	
			ART UNIT 3714	PAPER NUMBER
			NOTIFICATION DATE 10/14/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTOMail@traskbritt.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/727,154	<b>Applicant(s)</b> VLAZNY ET AL.	
	<b>Examiner</b> ALEX P. RADA	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 26-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/12/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

In response to the amendment filed 12 May 2009 wherein applicant submits arguments and claims 26-39 are pending in this application.

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 12 May 2009 was filed after the mailing date of the Non-Final Action on 12 February 2009. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 26-39 are rejected under 35 U.S.C. 102(e) as being anticipated by LaNeve (US Pub. No. 2003/0125822).

Regarding claim 26 LaNeve discloses a method of conducting a pari-mutuel gaming activity comprising: providing at least one patron an opportunity to select at

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least one runner from a list of runners (figures 3-5; wherein selecting at least one runner from a list of runners is shown); responsive to the at least one patron selecting the at least one runner, providing the at least one patron an opportunity to place at least one first wager on a race wherein the at least one runner makes up a portion of the at least one first wager (figures 3-5; wherein when the patron selects a runner, the probable payouts for that particular runner is shown for a particular wager shown); responsive to the at least one patron placing the at least one first wager, providing the at least one patron with an opportunity to place at least one second wager on the race (figures 3-5; wherein the patron is capable of placing another wager shown); and displaying at least one indicia of a wager selected by the at least one patron (figures 3-5 and paragraphs [0027-0039]; wherein the graphical user interface displays to the patrons wager or wagers being placed).

Regarding claims 27 and 34, LaNeve discloses wherein the at least one second wager includes the at least one runner of the at least one first wager (figures 3-5 and paragraphs [0027-0039]; wherein the patron selecting horse "1" for with horse "3" for a quiniela shown and wherein the first wager the patron selected horse "1").

Regarding claims 28 and 35, LaNeve discloses wherein the at least one second wager is not related to the at least one first wager (figures 3-5 and paragraphs [0027-0039]; wherein patron is capable of selecting different horse(s) for the second wager shown).

Regarding claims 29 and 36, LaNeve discloses wherein responsive to the at least one patron placing the at least one first wager, providing the at least one patron an

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opportunity to select at least another runner; wherein the at least another runner makes up a portion of the at least one second wager (figures 3-5 and paragraphs [0027-0039]; wherein patron may select different runners for different types of wager combinations shown).

Regarding claims 30 and 37, LaNeve discloses wherein the presenting the at least one patron with the opportunity to place the at least one second wager comprises: generating a pool of wager options including the at least one runner and the at least another runner; and displaying the pool of wager options to the least one patron (figures 4-5 and paragraphs [0027-0039] & [0044-0046]; wherein the patron may select what type of pool wager and determine the at least one runner for a particular pool wager shown).

Regarding claims 31 and 38, LaNeve discloses wherein marking an area of the displayed pool of wager options representing the at least one runner (figures 3-5; wherein a graphical user interface is shown).

Regarding claims 32 and 39, LaNeve discloses wherein displaying tote data in conjunction with at least one of the at least one first wager and the at least one second wager (figures 3-5; wherein the tote data is shown).

Regarding claim 33, LaNeve discloses a display element for displaying information associated with a pari-mutuel gaming activity (figures 3-5; wherein the displayed information associated with a pari-mutuel gaming activity is shown); an input device for interacting with at least one patron (figure 2; wherein an input device 108 is shown); a computer operatively configured with software (figure 2 and paragraphs

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[0020-0026]); and wherein the software is operatively configured to enable the computer to conduct the pari-mutuel gaming activity (figures 1-5 are summary), wherein, in the pari-mutuel gaming activity: at least one patron is provided with an opportunity to select at least one runner from a list of runners displayed on the display element (figures 3-5; wherein selecting at least one runner from a list of runners displayed is shown); the at least one patron is presented with an opportunity to place at least one first wager on a race displayed on the display element in response to the at least one patron selecting the at least one runner and wherein the at least one runner makes up a portion of the least one first wager (figures 3-5; wherein when the patron selects a runner, the probable payouts for that particular runner is shown for a particular wager shown); and the at least one patron is presented with an opportunity to place at least one second wager on the race displayed on the display element in response to the at least one patron placing the at least one first wager with the input device (figures 3-5 and paragraphs [0040-0046]; wherein the patron is capable of placing another wager shown).

### ***Response to Arguments***

3. Applicant's arguments filed 12 May 2009 have been fully considered but they are not persuasive.

Applicant contends that the prior art does not disclose "providing at least one patron an opportunity to select at least one runner from a list of runners; responsive to the at least one patron selecting the at least one runner, providing the at least one

patron an opportunity to place at least one first wager on a race wherein the at least one runner makes up a portion of the at least one first wager".

The examiner respectfully disagrees. LaNeve disclose in figures 3 to 5 a list of runners for a patron the opportunity to select at least one runner from a list of runner. Depending upon which track a user selects, a list of runners appears on a display for a patron to choose from. Once the patron has selected a runner, the patron has the opportunity to place at least one first wager on a race which makes up a portion of the at least one first wager (figures 4 and 4A). LaNeve discloses a graphical user interface which provides the patron with several different probable payouts for one or several different wagers. The purpose for the probable payouts is to give the patron the probable wager on a particular runner or runners the patron decides to wager on as shown. Once the player decides on the runner(s) the patron is then able to actually wager on the selected runner or runners. After the patron has placed the first wager, the patron has the opportunity to place another wager on the same track or different track and then select the different runners the there odds much like the first wager. The limitation can be interpreted to be two separate wagers. The limitation of the claims recites, "providing at least one patron an opportunity to place at least one first wager on a race wherein the at least one runner makes up a portion of the at least one first wager, which may interpreted to be a patron picks a runner and submits his/her wager. The next part of the limitation recites, "responsive to the at least one patron placing the at least one first wager, providing the at least one patron with an opportunity to place at least one second wager on the race", which may be interpreted to allowing the patron to

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place a second wager on the same track but with different runners selected. The limitations are interpreted to have separate wagers. The process of wagering does not change, whether a patron submits payment first and then picks the runners or picks the runner and then submits payout does not change the outcome of a patron wagering on what runner(s) to choose from in any given races. Giving the claim is broadest reasonable interpretation, LaNeve discloses "providing at least one patron an opportunity to select at least one runner from a list of runners; responsive to the at least one patron selecting the at least one runner, providing the at least one patron an opportunity to place at least one first wager on a race wherein the at least one runner makes up a portion of the at least one first wager; responsive to the at least one patron placing the at least one first wager, providing the at least one patron with an opportunity to place at least one second wager on the race".

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX P. RADA whose telephone number is (571)272-4452. The examiner can normally be reached on Monday - Thursday, 09:00-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. P. R./  
Examiner, Art Unit 3714

/Peter D. Vo/  
Supervisory Patent Examiner, Art Unit 3714